GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

TWD – Appeal Petition filed by Sri Kandrathi Venkata Ramanaiah S/o Nagaiah (Kolimpani), R/o Doddarajupalem Village & Post, Venkatachalam Mandal, SPSR Nellore District under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (A.P. Act No.16/1993), against the proceedings issued in Rc.No.C5(M)/1532/2013, dated 19.12.2013 of the District Collector, SPSR Nellore cancelling his ST Kammara Community Certificate – Appeal Petition dismissed - Orders - Issued.

TRIBAL WELFARE (CV) DEPARTMENT

G.O.Ms.No.73, Dated.16.11.2023.
Read the following:-

1. Proceedings of the District Collector, SPSR Nellore District, Rc.No.C5(M)/ 1532/2013, dated 19.12.2013.
2. Appeal Petition filed by Sri Kandrathi Venkata Ramanaiah S/o Nagaiah (Kolimpani), R/o Doddarajupalem Village & Post, Venkatachalam(M), SPSR Nellore Dist. before M(SW), No.1176/M(SW)/ 2014, dt.07.02.2014.
3. Govt. Memo No.3281/CV.2/2014, dated 07.04.2014.
4. From the District Collector, SPSR Nellore, Lr.Rc.C5(M)1532/2013, dated 26.10.2014 & 11.02.2015.
5. Govt. Memo No.3281/CV.2/2014, dt.22.10.2018, 27.12.2018 & 09.01.2019, 18.11.2022, 24.02.2023 & 26.06.2023.

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ORDER:

In the Proceedings 1st read above, the Collector & District Magistrate, SPSR Nellore had issued orders cancelling the "ST Kammara" community certificate of Sri Kandrathi Venkata Ramanaiah S/o Nagaiah (Kolimpani), obtained from the then Mandal Revenue Officer, Nellore.

2. In the reference 2nd read above, Sri Kandrathi Venkata Ramanaiah S/o Nagaiah (Kolimpani) has filed Appeal Petition before the Government against the Proceedings of the District Collector, SPSR Nellore. After examining the said Appeal Petition, Government have admitted the same and Para-wise remarks on the grounds filed by the Appellant along with connected records were called for from the District Collector, SPSR Nellore vide Govt. Memo 3rd read above.

3. In the letter 4th read above, the Collector & District Magistrate, SPSR Nellore has furnished the para-wise remarks on the Appeal Petition filed by Sri Kandrathi Venkata Ramanaiah S/o Nagaiah (Kolimpani).

4. The said Appeal Petition has been posted for hearing before the Hon'ble Appellate Authority on several dates and finally on 15.07.2023 duly informing the same to the Appellant and the Counsel for the Appellant vide reference 5th read above. During the course of the hearing and on perusal of the records/ the copies of evidences/ academic record/ grounds filed by the Appellant/ Para-wise remarks submitted by the District Collector, SPSR Nellore and proceedings of the District Collector, SPSR Nellore, dated 19.12.2013, the Appellate authority has observed that;

1. This Memorandum of Appeal Petition is filed by Sri Kandrathi Venkata Ramanaiah S/o. Nagaiah, under Section 7(2) of The AP SC, ST& BCs) Regulation of Issue of Community Certificates Act, 1993 and Rules, 1997(Act 16 of 1993) challenging the impugned Proceedings issued in Rc.C5 (M) 1532/2013, dated 19.12.2013 by the Collector & District Magistrate, SPSR Nellore, cancelling the Kammara (ST) Caste Certificate issued by the then Mandal Revenue Officer, Nellore in Certificate F.Dis.No.000645/5T/2000/NLR, dt.24.2.2000.

2. The matter came for hearing finally before the Revision Authority on 15-07-2023. Heard parties. Appellant was given an opportunity further to file written submission if any to till 07-08-2023. The Hon'ble High Court, AP directed the Government, to hear and decide the Appeal expeditiously within four weeks from the date of the receipt of the order passed in WP No 5214/2014 dated 24th Feb 2014. Therefore there is an obligation on the part of the Government for disposal of the Appeal. The Appellant was given reasonable opportunity to make his claim during the enquiry. After perusal of the material documents/ records available on the records, the following order is made.

[Contd..on P.2]

3. The main grounds of the Appellant are that the order of the District Level Scrutiny Committee (DLSC) is contrary to the procedure and evidence and the Circular Memo No.984/CV2/98-3, dated 23.07.1999 issued providing certain guidelines for issuance of social status certificates to Kammara caste person, which are either outdated or prohibited by law and he attended enquiry before the DLSC and submitted to documents substantiating his claim, but the respondent-Collector, cancelled the caste certificate issued to him.

4. The Appellant has further contended that the main profession of his father and fore fathers is Blacksmith producing agricultural implements etc, and Some of the Viswabrahmins living in the vicinity have informed that the customs are different from their family and their tradition is Goldsmith etc. and whereas the appellants family tradition is blacksmith, totemic clans Pangi (kite), Palagada, mutual love, elopment, marriage by caption, eat pork & Beef and all types of Non Vegetarians and worship Gangalamma, Poleramma, and a fine is also awarded to a person who does mistakes and are totally different from them and from his fore-fathers are migrant in nature having habit of eat pork, beef and all types of non-vegetarians and also consuming local made arracks both men and women during functions and totemic clan kite (Pangi, Palagada) worship of local village Devatas not perform Hindu functions, tradition by blacksmith death system, Marriage system, and the applicant and his family is totally different from the Viswabrahmins, as such their caste Kammara tribe which is recognized as ST at Sl No.5 of Annexure-I of A.P. Gazette No.24 8/9/1993."

5. The District Collector, SPSR Nellore has stated that the commissioner of Tribal Welfare, AP, and Hyderabad had directed him vide Rc.No.2037/2011/TRI/VC-B, dt.12.12.2012. while enclosing the enquiry report on the 30 candidates working in various departments in SPSR Nellore District under ST quota by way of obtaining fraudulent ST caste certificate and requested to cause a detailed enquiry into the above said 30 candidates and place these cases before the DLSC and take necessary action as per the provisions of the Act 16/1993 and rules there under and inform the action taken to their office.

6. The case of the collector is that the Mandal Revenue officer, Nellore issued caste certificate to the appellant without any enquiry and the appellant obtained certificate with a malafide intention, and a detailed enquiry was held as per the procedure before issuing the cancellation proceedings, and the appellant failed to produce substantive evidences in support of his caste claim before the District Level Scrutiny Committee(DLSC) and the DLSC found that the appellant does not belong to Kammara-scheduled Tribe and also recommended for initiating a criminal action against him.

7. The collector further has stated that the Government issued guidelines in Circular Memo.No.984/CV.2/98-3, Social Welfare (CV) Department, dated.23.7.1999 with regard to identification of Kammara (ST) caste people, according to which there are distinct characteristics found among Kammara (STs) and Kammari (Viswabrahmin) /Kammara (BCs) with the same nomenclature, the officers have to enquire into the social, cultural and religious way of life of the Kammara (STs) before issuing certificates and as per the AP (SC, ST & BC) Issue of Community, Nativity and Date of Birth Certificate Rules, 1997 and its Annexure-I at – SL.No.5(5), the competent authority for issue of Kammara (ST) Caste Certificate is the Revenue Divisional Officer in his territorial jurisdiction and in the present case, the appellant obtained caste certificate as Kammara (ST) from the then Mandal Revenue officer, Nellore and the certificate in question is a fraudulent and the collect has finally requested the Government to dismiss the appeal.

8. The background of case and rival submissions give rise to following points for consideration.

   1) Whether the MRO, Nellore is competent authority to issue caste certificate as ST- Kammara to the Appellant ?

   2) Whether there is any evidence, substantiating the claim of the appellant as ST- Kammara which is different from the caste of - Kammari- BC?

Issue No 1:

- The Appellant is claiming that he was issued a certificate as ST-Kammara by the then Mandal Revenue Officer, Nellore in 2000. The Government of Andhra Pradesh enacted the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of issue of Community Certificates Act, 1993 to consolidate the issue of Community Certificates relating to persons belonging to the Scheduled Castes, Scheduled Tribes and Backward Classes and for matters connected therewith or incidental thereto.

[Contd..on P.2]

- The Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Issue of Community, Nativity and Date of Birth Certificates Rules 1997 were issued in G.O.Ms.No.58, Social Welfare (J), dated 12-5-1997 in exercise of the powers conferred by sub-section (1) of Section 20 of the aforesaid Act. Rule 3 of the Rules dealing with Community, Nativity and Date of Birth Certificates. Under these Rules. The Annexure-1 appended to these Rules and subsequent modified Rules Vide G.O.Ms.No.122, Social Welfare (J2) Dept., 1st September 1997 specifies the competent authorities to issue community certificates and their jurisdiction.

- The entry No.5 - Kammara is specified as part of 12 STs in the appended Annexure-1 and further modified Rules Vide GO.Ms.No.122, affirm that "all Revenue Officers not below the rank of RDO/Sub Collector/Asst. Collector in the non -scheduled areas are the competent authorities and their territorial jurisdiction is revenue division.

- In the present case the Appellant obtained community certificate as ST-Kammara Mandal Revenue Officer from Nellore, which is a non-scheduled area. According to the specified rules cited supra, the Revenue Divisional Officer is alone competent to issue community certificate not the Mandal Revenue Officer.. The appellant obtained community certificate as ST-Kammara not from the competent authority as such it is not valid and proper.

Issue No-2:

- As per the impugned proceedings, Sri Kandrathi Venkata Ramanaiah S/o Nagaiah who is working as SGT, MPP School, Pigilam Village, Balayapalli Mandal obtained Kammara (ST) caste certificate from M.R.O, Nellore. The commissioner of Tribal Welfare sent a letter stating that the Project Officer, ITDA, Nellore collected the genealogical information from the appellant here in who got employment in Education Department under ST quota and it was found prima facie doubtful as the information furnished by him is incomplete and does not tally with the information available in their office on the claim of the candidate and requested the Collector to conduct an enquiry in to the community status of the appellant here in.

- The Appellant finds fault with the enquiry initiated by the Collector at the instance of the complaint made by the Commissioner of Tribal Welfare and further contends that he was already given certificate as ST- Kammara by MRO, Nellore as such it is valid.

- Even assuming for the argument sake, that the Appellant was given a certificate by MRO, Nellore in the year 2000 as ST- Kammara that alone does not preclude the authorities to initiate an enquiry if they have come to know that the certificate obtained is doubtful or not genuine.

- The District Collector is empowered under Section 5(1), either on suo-motu or on a written complaint in person, can call for the record of any person who obtained false community certificate either before or after the commencement of the Act and enquire into the correctness of such certificate. If the District collector is of the opinion that the certificate was obtained fraudulently, he shall by notification cancel the certificate after giving the person concerned an opportunity of making a representation.

- Therefore initiating an enquiry by the collector in the present case at the instance of a written complaint from the Commissioner of Tribal Welfare, AP, vide Rc.No.2037/2011/TRI/VC-B-8, dt.12.12.2012 is permissible under law.

- During the enquiry before the District Level Scrutiny Committee (DLSC) the appellant appeared on 26.10.2013 and offered his explanation. The contention of the appellant is that their ancestors are originally from Visakhapatnam and Srikakulam, and they had migrated to Nellore by moving places from one to another to attend the kolimi works (black Smith) and finally settled in Nellore and that they have been called as "bayatakammarulu" and also he explained their customs in relation to marriages, ceremonies, worships of the goddesses etc. As per the enquiry reports, their Surnames are "Kandarala, Palagada, Sindu, Pagiri, Oruganti, Badu, Angune".

[Contd..on P.3]

- However the enquiry reports, reveal that the explanation is not supported by any substantial documentary evidence in support of his claim. As per the reports the appellant stated that he was told by his family that they belong to Kammara (ST). The enquiry further reveals that the surname Kandrathi is not found in Kammara Tribe and the same is predominantly found in Kammari (BC) caste. The appellant has given details of customs of what the Kammara tribes do have. The enquiry proves a fact that the MRO, Nellore did not conduct a proper enquiry in to the caste claim of the appellant. The certificates produced by the appellant which are school certificates which have not probative value as far as his case is concerned.

- The (g) of Rule 5 of Rules 1997, provides an importance for verification of the claims in respect of the tribal communities who are not "traditional inhabitants" of the area of territorial jurisdiction of the "Competent Authority". In the present case, the claim of the Appellant is that their ancestors migrated from Visakhapatnam and Srikakulam Districts and settled in Nellore. But there is no evidence on record to show that they have relationship with the ST- Kammara of the said areas in the districts.

- The President issued notification of Scheduled Castes and Scheduled Tribes Order (Amendment) Act 1976 - Act 108 of 1976 dated 18-9-1976 wherein 'Kammara' was added under Part-1 in respect of Andhra Pradesh as falling under Schedule Tribe. Therefore there is no doubt that Kammara is a notified Scheduled Tribe. However identification of Kammara (ST) caste people, which is a distinct from the Kammari (Viswabrahmin)/Kammara (BCs) with the same nomenclature is needed to determine the Kammara -ST individuals through an elaborate enquiry in to such claims.

- The Hon'ble High Court of Andhra Pradesh in Kandrati Subboji And Anr. Vs Government Of Andhra Pradesh And ... on 29 December, 1997(1998 (1) ALD 726) held that "However, it is made clear that whenever an application is made for issue of Scheduled Tribe Certificate in respect of 'Kammara' tribe, it is open for the authorities to conduct the enquiry and a mere proclamation by a person that he belongs to 'Kammara' tribe would not automatically entitle him to get the Scheduled Tribe Certificate. Therefore, whenever, such a matter relating to issue of caste or tribe certificate or enquiry relating to the genuineness of such certificate arise, the authorities are required to enquire into the matter in accordance with the procedure laid down and take appropriate action. It is also made clear that if the 'Kammara' tribe certificates are issued to the persons who are not eligible, it is open for the authorities to cancel the same in accordance with the relevant statutory provisions".

- More over the appellant claims that they are called 'bayata kummarlu/bayata kammarlu". The bayata kammarlu is not a notified ST in the State of Andhra Pradesh. A five judge Constitution bench of the Supreme Court in State of Maharashtra Vs Millind (AIR 2001 SC 393), held that it is not possible to say that State Governments or any other authority or courts or tribunals are vested with any power to modify or vary the Presidential Orders. If that be so, no enquiry is permissible, and no evidence can be let in for establishing that a particular caste or part or group within tribes or tribe is included in Presidential Order if they are not expressly included in the Orders. Therefore the appellant cannot claim status as ST if his caste-bayata kammarlu is not notified as ST by the Presidential Order.

- The burden proof lies on the claimant to prove that he belongs to caste to which he claims to belong under Section 6 of the Act 1993. The Appellant failed to discharge his burden in proving his community as ST-Kammara. The Hon'ble Supreme Court, citing the broad parameters in determining the community status of an individual in Anand Vs. Committee for Scrutiny and Verification of Tribe Claims, on 8 November, 2011, observed that "Needless to add that the burden of proving the caste claim Is upon the applicant. He has to produce all the requisite documents in support of his claim. The Caste Scrutiny Committee merely performs the role of verification of the claim and therefore, can only scrutinize the documents and material produced by the applicant. In case, the material produced by the applicant does not prove his claim, the Committee cannot gather evidence on its own to prove or disprove his claim".

[Contd..on P.4]

- In view of the above rulings of the Higher courts and discussions made, there is no irregularity or illegality in cancelling the community certificate issued to the Appellant herein as ST-Kammara. Therefore the impugned order passed by the Collector & District Magistrate, SPSR Nellore in Rc.C5 (M) 1532/2013, dated 19.12.2013, cancelling the Kammara (ST) caste certificate issued by the then Mandal Revenue Officer, Nellore Vide Certificate No.000645/ST/2000/NLR, dt.24.2.2000 in favour of the Appellant is hereby upheld. In the result, Appeal petition is dismissed. As a sequel interim orders if any passed in the matter are hereby vacated. Appeal is disposed of accordingly.

5. Government after careful examination of the appeal petition and the circumstances stated supra and in exercise of the powers conferred under Section 7(2) of A.P. (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act 16 of 1993), and rules made there under, decide that the appeal petition filed by Sri Kandrathi Venkata Ramanaiah S/o Nagaiah (Kolimpani) does not deserve any interference. Hence, the proceedings in the Rc.No.C5(M)/1532/2013, dated 19.12.2013 of the District Collector, SPSR Nellore are hereby upheld and the appeal petition filed by Sri Kandrathi Venkata Ramanaiah S/o Nagaiah (Kolimpani) is hereby dismissed. The certificate issued by the then M.R.O, Nellore deemed to be cancelled.

6. The Collector & District Magistrate, SPSR Nellore is directed to take necessary consequential action in the matter, as per the A.P. (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act 16 of 1993), and rules made therein.

7. The records (Rc.No.C5(M)/1532/2013, containing pages 1 to 58) received from the Collector & District Magistrate, SPSR Nellore are returned herewith in original to the Collector & District Magistrate, SPSR Nellore and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
SECRETARY TO GOVERNMENT

To
The Collector & District Magistrate, SPSR Nellore.
(With original Records) **(BY RPAD)**

Sri Kandrathi Venkata Ramanaiah S/o Nagaiah (Kolimpani),
R/o Doddarajupalem Village & Post,
Venkatachalam (M), SPSR Nellore District.**(By RP)**

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Copy to:
The District Educational Officer, SPSR Nellore District.

The OSD to Hon'ble Deputy C.M.(TW).
The PS to Secretary(TW).
The Commissioner of Printing Stationery & Stores Purchase, A.P., Vijayawada.
(for publication in the A.P. Gazette)
Sf/Sc.

// FORWARDED:: BY ORDER //

M. Srinivasa Rao
SECTION OFFICER